

AMENDED IN ASSEMBLY APRIL 18, 1996  
AMENDED IN ASSEMBLY APRIL 9, 1996  
AMENDED IN ASSEMBLY FEBRUARY 21, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2068**

**Introduced by Assembly Member Richter**

January 12, 1996

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An act to add Article 17 (commencing with Section 1370) to Chapter 2 of Division 10 of the Evidence Code, relating to hearsay, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2068, as amended, Richter. Hearsay: exceptions.

Existing law, known as the “hearsay rule,” provides that, at a hearing, evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible. Several exceptions to the hearsay rule permit the admission of certain kinds of such evidence, including dying declarations, declarations against interest, and statements of the declarant’s then existing mental or physical state if offered for specified purposes.

This bill would create a new exception to the hearsay rule for evidence of a statement, made by an unavailable declarant, that purports to narrate, describe, or explain an act, condition, or event purportedly perceived by the declarant

where that act, condition, or event is the infliction or threat of physical harm, as specified, upon the declarant by the party against whom the statement is offered. The bill would also prohibit the admission of the evidence under certain conditions.

*The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 17 (commencing with Section  
2 1370) is added to Chapter 2 of Division 10 of the Evidence  
3 Code, to read:

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5 Article 17. Physical Abuse

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7 1370. (a) Evidence of a statement by a declarant is  
8 not made inadmissible by the hearsay rule if all of the  
9 following conditions are met:

10 (1) The statement purports to narrate, describe, or  
11 explain an act, condition, or event purportedly perceived  
12 by the declarant.

13 (2) The act, condition, or event referred to in  
14 paragraph (1) is the past, present, or future infliction or  
15 threat of physical harm upon the declarant by the party  
16 against whom the statement is offered.

17 (3) The declarant is unavailable as a witness.

18 (b) Evidence of a statement is inadmissible under this  
19 section if the statement was made under circumstances  
20 that would indicate its lack of trustworthiness.

21 (c) Evidence of a statement is inadmissible under this  
22 section unless the proponent of the evidence makes  
23 known to the adverse party the intention to offer the  
24 evidence of the statement and the circumstances  
25 concerning the statement sufficiently in advance of the  
26 proceedings in order to provide the adverse party with a  
27 fair opportunity to prepare to meet the evidence.



1    *SEC. 2. This act is an urgency statute necessary for the*  
2    *immediate preservation of the public peace, health, or*  
3    *safety within the meaning of Article IV of the*  
4    *Constitution and shall go into immediate effect. The facts*  
5    *constituting the necessity are:*

6    *In order to permit the admission of important evidence*  
7    *in various civil and criminal proceedings as soon as*  
8    *possible, it is necessary that this act take effect*  
9    *immediately.*

